1) What is the intent of the proposed Bylaw change recommendations?

As part of MSBA’s journey to become a more modern organization reflecting the best practices of other organizations, in 2018-19, then MSBA President, Hon. Keith Truffer, convened a Policy Review Committee (chaired by past-president, Judge Harry Storm). The committee (the membership of which included a broad cross-section of MSBA constituent members) was tasked with reviewing MSBA Policies, including policies related to meetings, committee selection, general operations, and conflicts of interest.

Ultimately, after reviewing the existing and outdated MSBA Policy & Procedure Manual (which included the Bylaws), the committee recommended a complete review of the governing documents, with the idea being that provisions in the Bylaws that were more in the nature of “policy” provisions, be moved to the policy manual which would be modernized and reorganized. The policy review committee worked with the Bylaws Committee (co-chaired by Marshall Paul, Esq. and Judge Storm, and the membership of which included experienced business lawyers who frequently dealt with governance documents) to refine and modernize the Association’s governing documents. As a result, the committees worked together to streamline the Bylaws, and shift various provisions to the appropriate document.

2) Who was on the Bylaws Committee and over what period of time did they meet to produce the work product being recommended?

Both the Policy Review and Bylaws committees were comprised of individuals from various sectors of the legal profession, including attorneys from solo and small firms, large firms, government, and corporate counsel, and various geographic areas within the state. The committees reviewed the best practices of similarly situated organizations and utilized their own experience with associations, non-profits, and other corporate entities in recommending the changes. They worked throughout the 2018-19 Bar Year to deliver their final recommendations to the Board of Governors at the June 2019 meeting.

3) Were these proposed changes reviewed and adopted for recommendation by the MSBA’s Board of Governors?

Yes. The Board of Governors received the recommendations for the first time in the May 2019 retreat. The Board had the opportunity to review the recommendations and submit questions to the committee chairs between the May 2019 Meeting and the June 2019 meeting. After a final presentation and discussion of the recommendations in the June 2019 meeting, the Board
voted to adopt the recommendations and submit them for a membership vote at the 2020 Mid-Year.

4) **Were the Bylaws/governing concepts of other organizations reviewed as part of this process?**

Yes. The committee reviewed governing concepts from other Bar Associations as well as other professional associations.

5) **How did the committees decide on their recommendations?**

The committees had numerous meetings during the 2018-19 Bar year to discuss and vote on the various provisions. As noted, the committee members relied on best practices of other Bar Association and similarly situated organizations, as well as their own expertise in working with corporate entities.

6) **What is the ‘big picture’ result of the recommendations?**

Generally, the recommendations made clarifications to the Bylaws regarding the role of the Board of Governors and Executive Committee in governing the Association. In addition, it removed certain provisions that were in the purview of the Board of Governors, including committee functions and composition, and advocacy functions, and added these provisions to the Policy Manual.

7) **How do the Bylaws relate to the Policies of the MSBA?**

The Bylaws and the Policy Manual are two of the four documents governing the MSBA. (The other two documents include the Charter and the Operation Procedures, which governs MSBA staff). The Bylaws provide the high-level, overarching provisions pertaining to member qualifications and governance of the MSBA. Policies, which are in the purview of the Board of Governors, are outlined in more detail in the Policy Manual. Bylaws and Policies, combined, govern the activities of the MSBA.

8) **What are the proposed changes?**

Recommended changes to the Bylaws include:

- Remove list of committees, charges, and selection process from the Bylaws, as these are created and directed by the MSBA Board of Governors, and add these provisions to Policy Manual;
- Revise Indemnification provision;
- Remove outdated processes related to requiring applications for membership;
- Reduce the number of mandated Board meetings to be in line with current practices;
- Clarify powers of the Board and Executive Committee;
- Clarify that policies in the purview of the Board will be outlined in the Policy Manual.
Recommended changes to the Policy Manual include:

- Reorganize for easier readability;
- Adopt use of Appendix for certain items, including regulations governing specific committees (i.e. Regulation of Fee Disputes);
- Remove provisions that were operational in nature;
- Clarify the MSBA’s goal to improve diversity in its leadership, committees, and sections;
- Record previously unwritten policies, including policies governing the creation of Sections, BOG expectations, and meetings;
- Remove outdated policies, including requiring paper ballots for BOG elections.

9) Is there a copy of the original draft and redlined versions of the Bylaws?

Yes. The existing Bylaws, Proposed Bylaws (Redline Version), and Proposed Bylaws (Clean Version), are all available on the MSBA website at [msba.org/bylaws](http://msba.org/bylaws). A link to Policy Manual, which was adopted by the Board of Governors in June 2019 is also available on that page.

10) How are Sections impacted, if at all, as it relates to their governance or ability to speak out on matters of importance to constituencies like the MD legislature?

The amendments do not create any new powers within the Board of Governors. Under the existing Bylaws, the Board of Governors maintains the power to create policies affecting committees, sections, and members. See Article V, Section 20 (“The Board from time to time may make, amend and revoke regulations, policies and procedures applicable to the Association, the members, the Sections and the Committees.”). In addition, the existing Bylaws presently vest in the Board of Governors the ultimate authority to decide on positions taken with regard to legislation.

Given that policies affecting Sections are within the purview of the Board, many have been migrated from the Bylaws to the Policy Manual, and have not been altered. For instance, MSBA’s policies affecting a Section’s role in advocacy are unchanged. The Board of Governors does not anticipate that any of these changes will affect in any manner the way that Sections conduct their affairs.

11) Was the intent to lessen the ability for Sections to speak on legislative matters?

Absolutely not. There is no change to how Sections currently approach advocacy or the ability to speak on legislative matters. The current Bylaws and Policies have defined this for many years.

12) If that is not the intent, could the practical implications of any changes result in a diminishment in the ability to speak on legislative matters?
No. The Bylaws and Policies are the governing documents and cumulatively they reflect the same level of authority for Sections. This was neither an intent nor a focus of the recommendations. Language appropriate for Bylaws were left there and language more appropriate for Policies were placed there as part of the broad effort to have these documents reflect best practices.

13) Are the Sections legally separate independent entities?

No. Sections are part of the MSBA. That stated, no change in their governance has been sought via any of the proposed recommendations.

14) Is the effect of these recommendations to ‘take power away’ from a segment of the MSBA such as the current authority of Sections?

There is no change in the current level of authority of Sections due to any of these recommendations.

15) Do the recommended changes alter the authority of the Board of Governors, President, Executive Committee or Executive Director?

There has been no change in the authority of any element of the MSBA’s Governance structure by virtue of these recommendations. The movement of language between the Bylaws and Policies does not result in any change. Both documents govern responsibilities and both documents serve a purpose. The ultimate authority of the Board of Governors, for instance, cannot be altered via language in a Policy document.

16) Language has been removed from the Bylaws. Why and does it mean there is diminishment in governance or a change simply due to the loss of that language in the Bylaws?

In nearly all instances, language removed from the Bylaws was simply placed in the Policies when deemed most appropriate as a Policy versus a Bylaw. This in no way diminishes the effect of the language in effect to govern. Both Bylaws and Policies, combined, govern the affairs of the MSBA.

17) Does this result in members losing their ability to vote on Section ‘autonomy’?

The authority of Sections to operate is derived from the Board of Governors per the current Bylaws. There is no change to the relationship between the Board of Governors and Sections nor any change in the manner which Sections are authorized to operate.

18) Have there been previous Bylaw changes?

Yes. Over its 120+ year history there have been numerous changes adopted. Most recently, in keeping with broader reviews, the MSBA examined its Bylaws in the 2017-18 Bar year. The
committee, at that time, recommended a reformatting of the Bylaws, to set the stage for future examination of the Bylaws. The recommendations were adopted by the membership in June 2018.

19) If I have comments, questions or concerns, who should I contact?

Comments, Questions, and Feedback can always be directed to Feedback@msba.org. MSBA staff monitors this email address and generally responds within about 24 hours.

20) When and how will Bylaw change recommendations be adopted?

The recommended Bylaws were approved by the Board of Governors its June 2019 meeting. The next step is to present the recommendations to the MSBA Membership. A two-thirds vote by members present at the Business Meeting called will adopt the recommended changes. The date of this in-person vote will be announced in accordance with the requirements as stated in the Bylaws. This announcement will be made via posting on the website, Bar Bulletin, and email communications to members. As part of the rollout, Section Chairs will be invited to an information session allowing them an opportunity to ask questions on behalf of Section members. There will also be a general information virtual session/webinar, for any member to participate in. The timing of these will be reflected in an updated version of this CAQ and will be communicated via email and other means.

21) Is the MSBA continuing efforts to review opportunities and challenges in the profession and any potential impact to its governance or other considerations?

Yes. In 2018-19 the MSBA convened a Strategic Vision Committee, which recommended six Strategic Priorities & Objectives for the MSBA over the next 3-5 years. A Strategic Implementation Committee has now been convened to ensure that the Strategic Priorities are implemented. As part of its role, the Strategic Implementation committee will work with various other committees, including the Bylaws Committee to ensure that the MSBA is positioned well to achieve the outlined priorities, including:

- Serving as the Voice of the Legal Profession in Maryland
- Being the Home of All Legal Professionals
- Leading Efforts to Improve Access to Justice
- Providing Significant Value to its Members
- Simplifying Access to MSBA Services, Tools & Resources
- Focusing on Innovation

You can view the full MSBA Strategic Priorities & Objectives report by clicking here.
22) If I want a question answered in a future update of this Commonly Asked Questions (CAQ) document, how do I submit it?

Questions should be sent to feedback@msba.org. We will respond to all inquiries and will post questions or themes reflected in a variety of questions within future updates of this document as deemed appropriate.